



January 30, 2015

## SENATE BILL No. 492

DIGEST OF SB 492 (Updated January 28, 2015 2:35 pm - DI 102)

**Citations Affected:** IC 4-3; IC 5-10.2; IC 5-10.3; IC 5-10.5; IC 21-38; IC 36-8.

**Synopsis:** Various pension matters. Provides that an individual who is a first time full-time employee of the state after June 30, 2015, must make an election to become a member of the public employees' retirement fund (PERF). Provides that if an employee of the state does not make an election, the employee becomes a member of the defined contribution (ASA only) plan (plan). (This reverses the presumption under current law.) Establishes a procedure by which a political subdivision may participate in the plan and choose whether the political subdivision's employees participate in PERF, the plan, or may elect whether to participate in PERF or the plan. Permits a political subdivision that allows its employees to make an election to choose a default option for employees who fail to do so. Provides that the default option is the plan, if a political subdivision does not choose a default option. Permits a political subdivision to establish its employer contribution rate to the plan and to elect to match a percentage of its employees' additional contributions to the plan. Requires the board of trustees (board) of the Indiana public retirement system (INPRS) to assess an employer a supplemental contribution to PERF, if necessary, to fund the employer's share of the actuarial accrued liability that is unfunded because the employer's employees are members of the plan rather than PERF. Requires the board to notify the interim study committee for pension management oversight (interim committee) if the board determines contributions and contribution rates for one or more employers participating in PERF or teachers' retirement fund  
(Continued next page)

**Effective:** Upon passage; July 1, 2015.

## Boots

January 14, 2015, read first time and referred to Committee on Pensions & Labor.  
January 29, 2015, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

SB 492—LS 7454/DI 113



(TRF) that differ from the contributions and contribution rates recommended by the INPRS actuaries. Requires the office of management and budget to report to the interim committee each year concerning information received from political subdivisions about the subdivisions' retirement plans other than plans administered by INPRS. Establishes a procedure for a miscellaneous participating entity (entity) or political subdivision to withdraw or freeze participation in PERF or TRF. Requires a withdrawing or freezing entity or political subdivision to fully fund PERF or TRF benefits attributable to the entity's or political subdivision's employees' PERF or TRF service with the entity or political subdivision. Requires an entity or political subdivision that withdraws from or freezes participation in PERF and thereafter offers its employees a retirement benefit to participate in the plan. Requires any other public employer that is eligible but not required to participate in PERF and that wishes to offer a retirement benefit to an employee after June 30, 2015, to participate in either PERF or the plan. Grandfathers participation in another defined contribution plan for entities, political subdivisions, and other public employers participating in another plan on July 1, 2015. Provides that after December 31, 2015, members and beneficiaries of any public pension fund administered by INPRS may receive monthly benefits only by direct deposit or another method approved by the board. Expires a section concerning other methods of paying monthly benefits to members and beneficiaries of PERF and TRF. Permits a retired member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who is at least 55 years of age to: (1) be rehired by the same unit that employed the member in a position covered by the 1977 fund for a position not covered by the 1977 fund without a minimum period of separation from employment; and (2) continue to receive the member's retirement benefit from the 1977 fund.



January 30, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 492

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 4-3-22-19 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 19. The OMB shall, not later than October**  
4 **1 each year, submit to the interim study committee on pension**  
5 **management oversight a written report that summarizes and**  
6 **analyzes the retirement plan information received for the**  
7 **immediately preceding state fiscal year under IC 5-11-20. The**  
8 **report must be in an electronic format under IC 5-14-6.**  
9       SECTION 2. IC 5-10.2-1-4.3 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. As used in this article,**  
12 **"miscellaneous participating entity" means an entity that**  
13 **participates in the public employees' retirement fund, except:**  
14       **(1) the executive (including the administrative), legislative, or**  
15       **judicial branches of the state; and**  
16       **(2) a political subdivision (as defined in IC 5-10.3-1-6).**

SB 492—LS 7454/DI 113



SECTION 3. IC 5-10.2-2-6, AS AMENDED BY P.L.35-2012, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The retirement allowance account of the public employees' retirement fund consists of the retirement fund, exclusive of the annuity savings account. The retirement allowance account also includes any amounts received under ~~IC 5-10.3-12-24(b)~~ **IC 5-10.3-12-24 or IC 5-10.3-12-24.5**. For the public employees' retirement fund, separate accounts within the retirement allowance account shall be maintained for contributions made by each contribution rate group.

(b) The retirement allowance account of the pre-1996 account consists of the pre-1996 account, exclusive of the annuity savings account.

(c) The retirement allowance account of the 1996 account consists of the 1996 account, exclusive of the annuity savings account.

SECTION 4. IC 5-10.2-2-11, AS AMENDED BY P.L.195-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, the board shall determine:

- (1) the normal contribution for each contribution rate group, which is the amount necessary to fund the pension portion of the retirement benefit;
- (2) the rate of normal contribution;
- (3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and
- (4) the period, which must be thirty (30) years or a shorter period, necessary to amortize the unfunded accrued liability determined in subdivision (3).

(b) Based on the information in subsection (a), the board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

**(c) The board shall require an employer to make a supplemental contribution to the fund in addition to the amounts described in subsection (a)(3) and (a)(4) in an amount necessary to pay the employer's share of the fund's actuarial unfunded liability that other employers would otherwise be required to pay because the employer's employees are becoming members of the plan under IC 5-10.3-12 instead of the fund. The amount necessary to pay an employer's contribution under this subsection in full must be made in a lump sum or in a series of payments determined by the board.**



(d) The board's determinations under subsection (a):

- (1) are subject to sections 1.5 and 11.5 of this chapter; and
- (2) may not include an amount for a retired member for whom the employer may not make contributions during the member's period of reemployment as provided under IC 5-10.2-4-8(e).

**(e) If the board determines contributions and contribution rates for one (1) or more employers under this section differ from the contributions and contribution rates determined by the actuarial investigation under section 9 of this chapter, the board shall notify the interim study committee for pension management oversight of this fact by reporting the board's action to the legislative services agency in an electronic format under IC 5-14-6.**

SECTION 5. IC 5-10.2-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) As used in this section, "withdrawing participating entity" means a miscellaneous participating entity that takes an action described in subsection (b).

**(b) Subject to the provisions of this section, a miscellaneous participating entity may do the following:**

**(1) Stop its participation in the fund and withdraw all of the miscellaneous participating entity's employees from participation in the fund.**

**(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.**

**(3) Stop the miscellaneous participating entity's participation in the fund by:**

- (A) selling all of the miscellaneous participating entity's assets; or**
- (B) ceasing to exist.**

**(c) The withdrawal of a miscellaneous participating entity's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all the following have occurred:**

**(1) The withdrawing participating entity has provided written notice of the following to the board:**

- (A) The withdrawing participating entity's intent to cease participation.**
- (B) The names of the withdrawing participating entity's current employees and former employees as of the date on which the notice is provided.**

**(2) The expiration of:**



(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing participating entity that sells all of the withdrawing participating entity's assets or that ceases to exist; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing participating entities.

(3) The withdrawing participating entity takes all actions required in subsections (d) through (g).

(d) With respect to retired members who have creditable service with the withdrawing participating entity, the withdrawing participating entity must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments.

(e) A member who is an employee of the miscellaneous participating entity as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing participating entity must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing participating entity and who are not employees as of the date of the notice under subsection (c), the withdrawing participating entity must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments.

SECTION 6. IC 5-10.2-2-21 IS ADDED TO THE INDIANA CODE



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21. (a) This section applies to a miscellaneous participating entity that takes any of the following actions on or after December 31, 2010:**

**(1) The miscellaneous participating entity determines a date:**

**(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees is required or allowed to participate in the fund; and**

**(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees is not allowed to participate in the fund.**

**(2) The miscellaneous participating entity determines a date:**

**(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees is required to participate in the fund; and**

**(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees is allowed to choose to participate in a retirement plan other than the fund.**

**(3) The miscellaneous participating entity modifies its employee classification scheme as of a specified date in such a way that there is at least one (1) position that:**

**(A) is covered by the fund before the specified date; and**

**(B) is not covered by the fund after the specified date.**

**(b) The following definitions apply throughout this section:**

**(1) "Freeze" or "freeze participation in the fund" means to take an action described in subsection (a).**

**(2) "Freezing participating entity" means a miscellaneous participating entity that freezes its participation in the fund.**

**(c) A miscellaneous participating entity that freezes its participation in the fund after December 31, 2010, shall do the following:**

**(1) Provide written notice of the following to the board:**

**(A) The action that was taken under subsection (a) by the freezing participating entity.**

**(B) The effective date of the action taken under subsection (a).**

**(C) The employee classifications that:**

**(i) are covered by the fund before the effective date of the freeze; and**

**(ii) will not be covered by the fund on or after the**



effective date of the freeze.

(D) The names of the freezing participating entity's current employees and former employees as of the date on which the notice is provided.

(2) Comply with subsections (d) through (f).

(d) With respect to retired members who have creditable service with the freezing participating entity, the freezing participating entity must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the freezing participating entity. The board shall collaborate with the freezing participating entity by sharing the actuarial method and report. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments.

(e) With respect to members of the fund who have creditable service with the freezing participating entity and who are not employees as of the effective date on which the miscellaneous participating entity freezes its participation in the fund, the freezing participating entity must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the freezing participating entity. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments.

(f) With respect to members of the fund who are employees of the freezing participating entity on the date of the notice under subsection (c), the freezing participating entity shall continue to contribute the amounts required under section 11 of this chapter for those employees for the duration of their employment with the freezing participating entity. In addition, the freezing participating entity must contribute to the fund the amount the board determines is necessary to fund fully the benefits attributable to service with the freezing participating entity that are vested or will become vested and are not expected to be fully funded through the continuing contributions under section 11 of this chapter during the duration of their employment with the freezing participating entity. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments.

(g) The Indiana public retirement system may do any of the following to determine a miscellaneous participating entity's compliance with this section:

(1) Require reports from the miscellaneous participating



entity.

**(2) Audit the miscellaneous participating entity.**

SECTION 7. IC 5-10.2-2-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) This section applies to a miscellaneous participating entity that:**

**(1) either:**

**(A) withdraws from the fund under section 20 of this chapter; or**

**(B) freezes its participation in the fund as described in section 21 of this chapter; and**

**(2) chooses thereafter to offer a retirement plan to its employees.**

**(b) Except as provided in subsection (c), a miscellaneous participating entity to which this section applies may offer a retirement plan to its employees only by participating in the defined contribution plan under IC 5-10.3-12.**

**(c) If, on July 1, 2015, a miscellaneous participating entity to which this section applies has established or is otherwise participating in a defined contribution plan other than the defined contribution plan under IC 5-10.3-12, the miscellaneous participating entity may continue to participate in the defined contribution plan in which the miscellaneous participating entity participated on July 1, 2015.**

SECTION 8. IC 5-10.2-2-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23. If any provision of this article, IC 5-10.3, or IC 5-10.4 allows the state as an employer to make an election or take discretionary action, the election or discretionary action shall be taken by the following entities, as applicable:**

**(1) The governor, if the election or discretionary action involves an elected officer, appointed officer, or employee of the executive branch.**

**(2) The legislative council, if the election or discretionary action involves a senator, a representative, or an employee of the legislative branch.**

**(3) The chief justice of the supreme court, if the election or discretionary action involves:**

**(A) a justice;**

**(B) a judge;**

**(C) a prosecuting attorney;**

**(D) an officer paid by the state under IC 33-23-5-10,**



1 **IC 33-38-5-7, or IC 33-39-6-2; or**

2 **(E) an employee of the judicial branch of state government.**

3 SECTION 9. IC 5-10.2-4-1.2, AS AMENDED BY P.L.115-2009,  
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 UPON PASSAGE]: Sec. 1.2. (a) Each fund shall adopt a policy that  
6 requires direct deposit or another method approved by the board as the  
7 preferred way for members and beneficiaries to receive monthly  
8 benefits.

9 (b) A member or beneficiary who does not wish to have payments  
10 to the person deposited by direct deposit or another method approved  
11 by the board under subsection (a) may request the board or a designee  
12 of the board to grant a waiver of the requirement of direct deposit or  
13 another method approved by the board. The member or beneficiary  
14 must:

15 (1) state the reason to the board for requesting the waiver; and

16 (2) sign a waiver form.

17 (c) The board or a designee of the board shall grant the member's or  
18 beneficiary's request for a waiver, approval of which shall not be  
19 unreasonably denied, if any of the following apply:

20 (1) The member or beneficiary currently does not have a savings  
21 or checking account.

22 (2) The member or beneficiary is unable to establish a savings or  
23 checking account within the geographic area of the home of the  
24 member or beneficiary without payment of a service fee. In  
25 support of this reason, the member or beneficiary must submit a  
26 written statement of the inability to establish the account without  
27 the payment of a fee with the waiver request.

28 (3) The home of the member or beneficiary is too remote to have  
29 access to a financial institution where direct deposit or another  
30 method approved by the board may be made.

31 (4) The financial institution of the member or beneficiary is  
32 unable to:

33 (A) accept direct deposit or another method approved by the  
34 board; or

35 (B) process electronic withdrawal.

36 The member or beneficiary must submit with the waiver a written  
37 statement from the financial institution of the member or  
38 beneficiary that the financial institution is unable to accept direct  
39 deposit or another method approved by the board or process  
40 electronic withdrawal.

41 (5) The board determines that the facts of the particular case  
42 warrant a waiver of the requirement of direct deposit or another



method approved by the board.

(d) The policy of the board must provide that a member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

**(e) This section expires January 1, 2016.**

SECTION 10. IC 5-10.3-2-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) The following definitions apply throughout this section:**

**(1) "Defined contribution plan" refers to the public employees' defined contribution plan established under IC 5-10.3-12.**

**(2) "Eligible entity" means an entity that is eligible but not required to participate in the public employees' retirement fund.**

**(3) "Qualifying employee" means an employee who would be eligible under IC 5-10.3-7 to become a member of the fund, if the employee's employer were to participate in the fund.**

**(b) Except as otherwise provided in this section, if an eligible entity wishes to offer a retirement plan to a qualifying employee, the eligible entity must provide the retirement plan to the qualifying employee by participating in the fund or the defined contribution plan.**

**(c) If, on July 1, 2015, an eligible employer is providing a retirement plan other than the fund or the defined contribution plan to a departmental, occupational, or other definable classification of an eligible entity's employees, the qualifying employees in the departmental, occupational, or other classification of employees may continue to participate in the retirement plan, regardless of whether the qualifying employees in the departmental, occupational, or other definable classification begin employment with the eligible entity after June 30, 2015.**

**(d) An eligible entity may offer a retirement plan other than the fund or the defined contribution plan to an employee, if the employee is not a qualifying employee.**

SECTION 11. IC 5-10.3-6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "plan" refers to the public employees' defined contribution plan**



1 under IC 5-10.3-12.

2 SECTION 12. IC 5-10.3-6-1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~By ordinance~~  
4 ~~or resolution of~~ The governing body of a political subdivision may  
5 **adopt an ordinance or resolution** specifying by a departmental,  
6 occupational, or other definable classification ~~the~~ of employees:

7 (1) ~~who will~~ **are required to** become members of the fund;

8 (2) **who are required to become members of the plan; or**

9 (3) **who may each elect whether to become members of the**  
10 **fund or members of the plan.**

11 A political subdivision may become a participant in the fund **or the**  
12 **plan, or both, as applicable**, if the ordinance or resolution is filed with  
13 and approved by the board.

14 (b) **An ordinance or resolution adopted under subsection (a)**  
15 **that includes a provision described under subsection (a)(3) may**  
16 **also include one (1) of the following provisions:**

17 (1) **If an employee who may elect whether to become a**  
18 **member of the fund or a member of the plan does not make**  
19 **an election under IC 5-10.3-7-1.1, the employee becomes a**  
20 **member of the plan.**

21 (2) **If an employee who may elect whether to become a**  
22 **member of the fund or a member of the plan does not make**  
23 **an election under IC 5-10.3-12-20.5, the employee becomes a**  
24 **member of the fund.**

25 **If an ordinance or resolution adopted under subsection (a) that**  
26 **includes a provision described under subsection (a)(3) does not**  
27 **include either of the provisions described in subdivisions (1) or (2),**  
28 **subdivision (1) applies to the departmental, occupational, or other**  
29 **definable classification of employees that may elect to become**  
30 **members of the fund or members of the plan.**

31 (c) **If an ordinance or resolution adopted under subsection (a)**  
32 **includes a provision described under subsection (a)(2) or (a)(3), or**  
33 **both, the ordinance or resolution may include a specification of the**  
34 **political subdivision's contribution rate to the plan as a percentage**  
35 **of each member's compensation. Each year, the political**  
36 **subdivision's contribution rate specified under this subsection must**  
37 **be greater than or equal to zero percent (0%) and may not exceed**  
38 **the percentage that would produce the normal cost for**  
39 **participation in the fund under IC 5-10.2-2-11, if the political**  
40 **subdivision were a participant in the fund. If a provision specifying**  
41 **the political subdivision's contribution rate is not included in the**  
42 **ordinance or resolution, the political subdivision's contribution**



rate to the plan is zero percent (0%).

(d) If an ordinance or resolution adopted under subsection (a) includes a provision described under subsection (a)(2) or (a)(3), or both, the ordinance or resolution may include a specification of the political subdivision's matching rate that is the percentage of each member's additional contributions to the plan that the political subdivision will match. A political subdivision may specify only:

(1) zero percent (0%); or

(2) fifty percent (50%).

If a provision specifying the political subdivision's matching rate is not included in the ordinance or resolution, the political subdivision's matching rate for the plan is zero percent (0%).

(b) (e) A governing body may include in its ordinance or resolution adopted under subsection (a) a determination of the date from which prior service for its employees will be computed. Creditable service for these employees is determined under IC 5-10.3-7-7.5.

(c) (f) The effective date of participation is the earlier of January 1 or July 1 after the date of approval. However, no retirement benefit may be paid until six (6) months after the effective date of participation.

SECTION 13. IC 5-10.3-6-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This section applies to a third class city or a town.

(b) The clerk-treasurer of a city or town is that city's or town's authorized agent for all matters concerning the fund **and the plan**.

SECTION 14. IC 5-10.3-6-4, AS AMENDED BY P.L.23-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The board shall maintain separate accounts for each contribution rate group. Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2 **and IC 5-10.3-12, as applicable**.

SECTION 15. IC 5-10.3-6-7, AS AMENDED BY P.L.115-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

(1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund **or the plan, as applicable**; or

(2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. The suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.



(b) If:

(1) service credit is verified for a member who has filed an application for retirement benefits; and

(2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection

(a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

(1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and

(2) transfer the penalty to the fund **or the plan, as applicable**.

SECTION 16. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.



(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through ~~(h)~~ (g).

(d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members **attributable to service with the withdrawing political subdivision.** The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit **attributable to service with the withdrawing political subdivision.** The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

~~(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section~~



1 401(a)(4) of the Internal Revenue Code of 1954, as in effect on  
 2 September 1, 1974. The board may deny a political subdivision  
 3 permission to withdraw if the denial is necessary to achieve compliance  
 4 with Section 401(a)(4) of the Internal Revenue Code of 1954, as in  
 5 effect on September 1, 1974.

6 SECTION 17. IC 5-10.3-6-8.2 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE UPON PASSAGE]: **Sec. 8.2. (a) The following**  
 9 **definitions apply throughout this section:**

10 (1) "Freeze" or "freeze participation in the fund" means to  
 11 take an action described under subsection (b).

12 (2) "Freezing political subdivision" means a political  
 13 subdivision that freezes its participation in the fund.

14 (b) Subject to the provisions of this section, a political  
 15 subdivision may do the following:

16 (1) Determine a date:

17 (A) before which newly hired employees of a departmental,  
 18 occupational, or other definable classification of employees  
 19 is eligible to participate in the fund; and

20 (B) on or after which newly hired employees of the  
 21 departmental, occupational, or other definable  
 22 classification of employees is not eligible to participate in  
 23 the fund.

24 (2) Determine a date:

25 (A) before which newly hired employees of a departmental,  
 26 occupational, or other definable classification of employees  
 27 is required to participate in the fund; and

28 (B) on or after which newly hired employees of the  
 29 departmental, occupational, or other definable  
 30 classification of employees is allowed to choose whether to  
 31 participate in a retirement benefit system other than the  
 32 fund.

33 (3) Modify the political subdivision's employee classification  
 34 scheme as of a specified date in such a way that there is at  
 35 least one (1) position that:

36 (A) is covered by the fund before the specified date; and

37 (B) is not covered by the fund on or after the specified date.

38 (c) A political subdivision that freezes its participation in the  
 39 fund after December 31, 2010, shall do the following:

40 (1) Provide written notice of the following to the board:

41 (A) The action that was taken under subsection (b) by the  
 42 freezing political subdivision.



- 1 (B) The effective date of the action taken under subsection  
2 (b).  
3 (C) The employee classifications that:  
4 (i) are covered by the fund before the effective date of  
5 the freeze; and  
6 (ii) will not be covered by the fund on or after the  
7 effective date of the freeze.  
8 (D) The names of the freezing political subdivision's  
9 current employees and former employees as of the date on  
10 which the notice is provided.  
11 (2) Comply with subsections (d) through (f).  
12 (d) With respect to retired members who have creditable service  
13 with the freezing political subdivision, the freezing political  
14 subdivision must contribute to the fund any additional amounts  
15 that the board determines are necessary to provide for reserves  
16 with sufficient assets to pay all future benefits from the fund to  
17 those retired members attributable to service with the freezing  
18 political subdivision. The contribution by the freezing political  
19 subdivision must be made in a lump sum or in a series of payments  
20 determined by the board.  
21 (e) With respect to members of the fund who have creditable  
22 service with the freezing political subdivision and who are not  
23 employees as of the effective date on which the political subdivision  
24 freezes its participation in the fund, the freezing political  
25 subdivision must contribute the amount that the board determines  
26 is necessary to fund fully the service for those members that is  
27 attributable to service with the freezing political subdivision. The  
28 contribution by the freezing political subdivision must be made in  
29 a lump sum or in a series of payments determined by the board.  
30 (f) With respect to members of the fund who are employees of  
31 the freezing political subdivision on the date of the notice under  
32 subsection (c), the freezing political subdivision shall continue to  
33 contribute the amounts required under IC 5-10.2-2-11 for those  
34 employees for the duration of their employment with the freezing  
35 political subdivision. In addition, the freezing political subdivision  
36 must contribute to the fund the amount the board determines is  
37 necessary to fund fully the benefits attributable to service with the  
38 freezing political subdivision that are vested, or will become vested,  
39 and are not anticipated to be fully funded through the continuing  
40 contributions under IC 5-10.2-2-11 during the duration of their  
41 employment with the freezing political subdivision. The  
42 contribution by the freezing participating entity must made in a



1 lump sum or in a series of payments determined by the board.

2 (g) The Indiana public retirement system may do any of the  
3 following to determine a political subdivision's compliance with  
4 this section:

5 (1) Require reports from the political subdivision.

6 (2) Audit the political subdivision.

7 SECTION 18. IC 5-10.3-6-8.3 IS ADDED TO THE INDIANA  
8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
9 [EFFECTIVE UPON PASSAGE]: Sec. 8.3. (a) This section applies to  
10 a political subdivision that:

11 (1) either:

12 (A) withdraws from the fund under section 8 of this  
13 chapter; or

14 (B) freezes its participation in the fund as described in  
15 section 8.2 of this chapter; and

16 (2) chooses thereafter to offer a retirement plan to its  
17 employees.

18 (b) Except as provided in subsection (c), a political subdivision  
19 to which this section applies may offer a retirement plan to its  
20 employees only by participating in the defined contribution plan  
21 under IC 5-10.3-12.

22 (c) If, on July 1, 2015, a political subdivision to which this  
23 section applies has established or is otherwise participating in a  
24 defined contribution plan other than the defined contribution plan  
25 under IC 5-10.3-12, the political subdivision may continue to  
26 participate in the defined contribution plan in which the political  
27 subdivision participated on July 1, 2015.

28 SECTION 19. IC 5-10.3-7-1, AS AMENDED BY P.L.195-2013,  
29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 UPON PASSAGE]: Sec. 1. (a) This section does not apply to:

31 (1) members of the general assembly; or

32 (2) employees covered by section 3 of this chapter.

33 (b) As used in this section, "employees of the state" includes:

34 (1) employees of the judicial circuits whose compensation is  
35 paid from state funds;

36 (2) elected and appointed state officers;

37 (3) prosecuting attorneys and deputy prosecuting attorneys of  
38 the judicial circuits, whose compensation is paid in whole or  
39 in part from state funds, including participants in the  
40 prosecuting attorneys retirement fund established under  
41 IC 33-39-7;

42 (4) employees in the classified service;



(5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;

(6) employees of any state agency which is a body politic and corporate;

(7) except as provided under IC 5-10.5-7-4, employees of the board of trustees of the Indiana public retirement system;

(8) persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the United States Secretary of Agriculture; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410;

(9) the directors and employees of county offices of family and children;

(10) employees of the center for agricultural science and heritage (the barn); and

(11) members and employees of the state lottery commission.

~~(b)~~ (c) An employee of the state or of a participating political subdivision who:

(1) became a full-time employee of the state or of a participating political subdivision in a covered position; and

(2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

~~(c)~~ (d) Any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, **and before July 1, 2015**, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

(1) employees of the judicial circuits whose compensation is paid from state funds;

(2) elected and appointed state officers;

(3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part



from state funds; including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;

(4) employees in the classified service;

(5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;

(6) employees of any state agency which is a body politic and corporate;

(7) except as provided under IC 5-10.5-7-4, employees of the board of trustees of the Indiana public retirement system;

(8) persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410;

(9) the directors and employees of county offices of family and children;

(10) employees of the center for agricultural science and heritage (the barn); and

(11) members and employees of the state lottery commission.

**(e) An individual:**

(1) who becomes a full-time employee of the state after June 30, 2015;

(2) who is not excluded from membership under section 2 of this chapter; and

(3) who makes the election under section 1.1 of this chapter; becomes a member of the fund on the date the individual's employment begins.

**(f) An individual:**

(1) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;

(2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the fund; and

(3) who is not excluded from membership under section 2 of this chapter;

becomes a member of the fund on the date the individual's employment begins.



1 (g) An individual:

2 (1) who becomes a full-time employee of a political  
3 subdivision in a covered position after June 30, 2015;

4 (2) who is employed by a political subdivision that has elected  
5 in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
6 approved by the board:

7 (A) to allow an employee in the covered position to become  
8 a member of the fund or a member of the public  
9 employee's defined contribution plan at the discretion of  
10 the employee; and

11 (B) to require an employee in a covered position to make  
12 an election under IC 5-10.3-12-20.5 in order to become a  
13 member of the plan;

14 (3) who does not make an election under IC 5-10.3-12-20.5 to  
15 become a member of the public employees' defined  
16 contribution plan; and

17 (4) who is not excluded from membership under section 2 of  
18 this chapter;

19 becomes a member of the fund on the date the individual's  
20 employment begins.

21 (h) An individual:

22 (1) who becomes a full-time employee of a political  
23 subdivision in a covered position after June 30, 2015;

24 (2) who is employed by a political subdivision that has elected  
25 in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
26 approved by the board:

27 (A) to allow an employee in the covered position to become  
28 a member of the fund or the public employees' defined  
29 contribution plan at the discretion of the employee; and

30 (B) to require an employee to make an election under  
31 section 1.1 of this chapter in order to become a member of  
32 the fund;

33 (3) who does make an election under section 1.1 of this  
34 chapter to become a member of the fund; and

35 (4) who is not excluded from membership under section 2 of  
36 this chapter;

37 becomes a member of the fund on the date the individual's  
38 employment begins.

39 SECTION 20. IC 5-10.3-7-1.1 IS ADDED TO THE INDIANA  
40 CODE AS A NEW SECTION TO READ AS FOLLOWS  
41 [EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) An individual:

42 (1) who becomes a full-time employee of the state (as defined



in section 1 of this chapter) after June 30, 2015; and  
 (2) who is not excluded from membership under section 2 of  
 this chapter;  
 may elect to become a member of the fund.

(b) An individual:

(1) who becomes a full-time employee of a political  
 subdivision in a covered position after June 30, 2015;

(2) who is employed by a political subdivision that has elected  
 in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
 approved by the board:

(A) to allow an employee in the covered position to become  
 a member of the fund or the public employees' defined  
 contribution plan at the discretion of the employee; and

(B) to require an employee to make an election under this  
 section in order to become a member of the fund; and

(3) who is not excluded from membership under section 2 of  
 this chapter;

may elect to become a member of the fund.

(c) An election under this section:

(1) must be made in writing on a form prescribed by the  
 board;

(2) must be filed with the board; and

(3) is irrevocable.

(d) An individual who:

(1) is eligible to make the election under this section; and

(2) does not make the election;

becomes a member of the public employees' defined contribution  
 plan.

SECTION 21. IC 5-10.3-7-7.5 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5.  
 Notwithstanding IC 5-10.2-3-1, for the purpose of computing benefits  
 the creditable service of a member covered by an ordinance or  
 resolution adopted by a political subdivision's governing body under  
~~IC 5-10.3-6-1(b)~~ IC 5-10.3-6-1(e) excludes all service with the  
 political subdivision before the prior service credit date contained in  
 the resolution. However, service with the political subdivision before  
 the prior service credit date shall be considered for the purpose of  
 determining eligibility for benefits.

SECTION 22. IC 5-10.3-7-12.5, AS AMENDED BY P.L.165-2009,  
 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]: Sec. 12.5. (a) An employer or department shall  
 make the reports, membership records, or payments required by



IC 5-10.3-6 or by sections 10 through 12 of this chapter:

- (1) not more than thirty (30) days after the end of the calendar quarter, if applicable;
- (2) another due date specified in sections 10 through 12 of this chapter; or
- (3) an alternate due date established by the rules of the board.

(b) If the employer or department does not make the reports, records, or payments within the time specified in subsection (a):

- (1) the board may fine the employer or department one hundred dollars (\$100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and
- (2) if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

(c) After December 31, 2009, an employer or department shall submit:

- (1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and
- (2) both:
  - (A) employer contributions determined under IC 5-10.2-2-11, **IC 5-10.3-12-24, or IC 5-10.3-12-24.5**; and
  - (B) contributions paid by or on behalf of a member under section 9 of this chapter **or IC 5-10.3-12-23**;

by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

SECTION 23. IC 5-10.3-8-14, AS AMENDED BY P.L.91-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection ~~(c)~~, **(d)**, this section applies to employees of the state ~~(as defined in IC 5-10.3-7-1(d))~~ who are:

- (1) members of the fund; and
- (2) paid by the auditor of state by salary warrants.

(b) Except as provided in subsection ~~(c)~~, **(d)**, this section does not apply to the employees of the state ~~(as defined in IC 5-10.3-7-1(d))~~ employed by:

- (1) a body corporate and politic of the state created by state statute; or
- (2) a state educational institution (as defined in IC 21-7-13-32).

**(c) As used in this section, "employees of the state" has the meaning set forth in IC 5-10.3-7-1.**



1       ~~(e)~~ (d) The chief executive officer of a body or institution described  
 2 in subsection (b) may elect to have this section apply to the employees  
 3 of the state ~~(as defined in IC 5-10.3-7-1(d))~~ employed by the body or  
 4 institution by submitting a written notice of the election to the director.  
 5 An election under this subsection is effective on the later of:

- 6           (1) the date the notice of the election is received by the director;  
 7           or  
 8           (2) July 1, 2013.

9       ~~(d)~~ (e) The board shall adopt provisions to establish a retirement  
 10 medical benefits account within the fund under Section 401(h) or as a  
 11 separate fund under another applicable section of the Internal Revenue  
 12 Code for the purpose of converting unused excess accrued leave to a  
 13 monetary contribution for an employee of the state to fund on a pretax  
 14 basis benefits for sickness, accident, hospitalization, and medical  
 15 expenses for the employee and the spouse and dependents of the  
 16 employee after the employee's retirement. The state may match all or  
 17 a portion of an employee's contributions to the retirement medical  
 18 benefits account established under this section.

19       ~~(e)~~ (f) The board is the trustee of the account described in  
 20 subsection ~~(d)~~: (e). The account must be qualified, as determined by the  
 21 Internal Revenue Service, as a separate account within the fund whose  
 22 benefits are subordinate to the retirement benefits provided by the fund.

23       ~~(f)~~ (g) The board may adopt rules under IC 5-10.5-4-2 that it  
 24 considers appropriate or necessary to implement this section after  
 25 consulting with the state personnel department. The rules adopted by  
 26 the board under this section must:

- 27           (1) be consistent with the federal and state law that applies to:  
 28           (A) the account described in subsection ~~(d)~~; (e); and  
 29           (B) the fund; and  
 30           (2) include provisions concerning:  
 31           (A) the type and amount of leave that may be converted to a  
 32           monetary contribution;  
 33           (B) the conversion formula for valuing any leave that is  
 34           converted;  
 35           (C) the manner of employee selection of leave conversion; and  
 36           (D) the vesting schedule for any leave that is converted.

37       ~~(g)~~ (h) The board may adopt the following:

- 38           (1) Account provisions governing:  
 39           (A) the investment of amounts in the account; and  
 40           (B) the accounting for converted leave.  
 41           (2) Any other provisions that are necessary or appropriate for  
 42           operation of the account.



1       ~~(h)~~ **(i)** The account described in subsection ~~(d)~~ **(e)** may be  
 2 implemented only if the board has received from the Internal Revenue  
 3 Service any rulings or determination letters that the board considers  
 4 necessary or appropriate.

5       ~~(i)~~ **(j)** To the extent allowed by:

6           (1) the Internal Revenue Code; and

7           (2) rules adopted by:

8               (A) the board under this section; and

9               (B) the state personnel department under IC 5-10-1.1-7.5;  
 10 employees of the state may convert unused excess accrued leave to a  
 11 monetary contribution under this section and under IC 5-10-1.1-7.5.

12       SECTION 24. IC 5-10.3-12-1, AS AMENDED BY P.L.54-2013,  
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: Sec. 1. (a) Except as **otherwise** provided in  
 15 ~~subsection (e)~~, **this section**, this chapter applies to **the following**:

16       **(1) An individual who:**

17           ~~(A)~~ **(A)** on or after the effective date of the plan ~~(h)~~ **and before**  
 18 **July 1, 2015**, becomes for the first time a full-time employee  
 19 of the state: ~~(as defined in IC 5-10.3-7-1(d))~~:

20               ~~(A)~~ **(i)** in a position that would otherwise be eligible for  
 21 membership in the fund under IC 5-10.3-7; and

22               ~~(B)~~ **(ii)** who is paid by the auditor of state by salary  
 23 warrants; and

24           ~~(2)~~ **(B)** makes the election described in section 20 of this  
 25 chapter to become a member of the plan.

26       **(2) An individual who:**

27           ~~(A)~~ **(A)** after **June 30, 2015**, becomes for the first time a  
 28 **full-time employee of the state:**

29               **(i) in a position that would otherwise be eligible for**  
 30 **membership in the fund under IC 5-10.3-7; and**

31               **(ii) who is paid by the auditor of state by salary**  
 32 **warrants; and**

33           ~~(B)~~ **(B)** does not make the election under IC 5-10.3-7-1.1 to  
 34 become a member of the fund.

35       **(3) An individual:**

36           ~~(A)~~ **(A)** who becomes a full-time employee of a participating  
 37 political subdivision in a covered position after **June 30,**  
 38 **2015;**

39           ~~(B)~~ **(B)** who would otherwise be eligible for membership in the  
 40 fund under IC 5-10.3-7; and

41           ~~(C)~~ **(C)** who is employed by a political subdivision that has  
 42 elected in an ordinance or resolution adopted under



- 1           **IC 5-10.3-6-1 and approved by the board to require an**
- 2           **employee in the covered position to become a member of**
- 3           **the plan.**
- 4       **(4) An individual:**
- 5           **(A) who becomes a full-time employee of a political**
- 6           **subdivision in a covered position after June 30, 2015;**
- 7           **(B) who would otherwise be eligible for membership in the**
- 8           **fund under IC 5-10.3-7;**
- 9           **(C) who is employed by a political subdivision that has**
- 10          **elected in an ordinance or resolution adopted under**
- 11          **IC 5-10.3-6-1 and approved by the board:**
- 12           **(i) to allow an employee in the covered position to**
- 13           **become a member of the fund or a member of the plan at**
- 14           **the discretion of the employee; and**
- 15           **(ii) to require an employee in a covered position to make**
- 16           **an election under section 20.5 of this chapter in order to**
- 17           **become a member of the plan; and**
- 18          **(D) who makes an election under section 20.5 of this**
- 19          **chapter to become a member of the plan.**
- 20       **(5) An individual:**
- 21           **(A) who becomes a full-time employee of a political**
- 22           **subdivision in a covered position after June 30, 2015;**
- 23           **(B) who would otherwise be eligible for membership in the**
- 24           **fund under IC 5-10.3-7;**
- 25           **(C) who is employed by a political subdivision that has**
- 26           **elected in an ordinance or resolution adopted under**
- 27           **IC 5-10.3-6-1 and approved by the board:**
- 28           **(i) to allow an employee in the covered position to**
- 29           **become a member of the fund or a member of the plan at**
- 30           **the discretion of the employee; and**
- 31           **(ii) to require an employee to make an election under**
- 32           **IC 5-10.3-7-1.1 in order to become a member of the**
- 33           **fund; and**
- 34           **(D) who does not make an election under IC 5-10.3-7-1.1 to**
- 35           **become a member of the fund.**
- 36       **(b) Except as provided in subsection (c), this chapter does not apply**
- 37       **to an individual who, on or after the effective date of the plan:**
- 38           **(1) becomes for the first time a full-time employee of the state (as**
- 39           **defined in IC 5-10.3-7-1(d)) in a position that would otherwise be**
- 40           **eligible for membership in the fund under IC 5-10.3-7; and**
- 41           **(2) is employed by:**
- 42           **(A) a body corporate and politic of the state created by state**



statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who, as employees of the body or institution, become for the first time full-time employees of the state ~~(as defined in IC 5-10.3-7-1(d))~~ in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director; or

(2) March 1, 2013.

(d) This chapter does not apply to ~~an individual who:~~ **the following:**

(1) **An individual who before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund or before otherwise becoming eligible to become a member of the plan.**

(2) **An individual who:**

(A) on or after the effective date of the plan **and before July 1, 2015,** ~~(A)~~ except as provided in subsection (c), becomes for the first time a full-time employee of the state: ~~(as defined in IC 5-10.3-7-1(d))~~;

(i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(ii) who is not paid by the auditor of state by salary warrants; or

(B) does not elect to participate in the plan.

(3) **An individual who:**

(A) **is eligible to make the election under IC 5-10.3-7-1.1 to become a member of the fund; and**

(B) **does make the election under IC 5-10.3-7-1.1 to become a member of the fund.**

(4) **An individual who is required to become a member of the fund.**

SECTION 25. IC 5-10.3-12-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7.5. As used in this chapter, "employees of the state" has the meaning set forth in IC 5-10.3-7-1.**

SECTION 26. IC 5-10.3-12-8, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. As used in this chapter, "employer" means**



the state **or a participating political subdivision.**

SECTION 27. IC 5-10.3-12-12, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. As used in this chapter, "member" means an individual who has elected **or is required** to participate in the plan.

SECTION 28. IC 5-10.3-12-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. As used in this chapter, "participating political subdivision" means a political subdivision which is participating in the plan as specified in IC 5-10.3-6.**

SECTION 29. IC 5-10.3-12-20, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) **This section applies only to** an individual who, on or after the effective date of the plan **and before July 1, 2015,** becomes for the first time a full-time employee of the state ~~(as defined in IC 5-10.3-7-1(d))~~ in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7.

**(b) An individual to whom this section applies** may elect to become a member of the plan. An election under this section:

- (1) must be made in writing;
- (2) must be filed with the board, on a form prescribed by the board; and
- (3) is irrevocable.

~~(b)~~ **(c)** An individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.

SECTION 30. IC 5-10.3-12-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 20.5. (a) This section applies to an individual described in section 1(a)(4) of this chapter who is otherwise eligible to become a member of the plan.**

**(b) An individual described in subsection (a) may elect to become a member of the plan on the date the individual begins the individual's employment in a covered position with a political subdivision that participates in the plan.**

**(c) An election under this section:**

- (1) must be made in writing;
- (2) must be filed with the board, on a form prescribed by the board; and
- (3) is irrevocable.

**(d) An individual described in subsection (a) who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.**



SECTION 31. IC 5-10.3-12-21, AS AMENDED BY P.L.35-2012, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 21. (a) The plan consists of the following:

- (1) Each member's contributions to the plan under section 23 of this chapter.
- (2) Contributions made by an employer to the plan on behalf of each member under section 24 **or 24.5** of this chapter.
- (3) Rollovers to the plan by a member under section 29 of this chapter.
- (4) All earnings on investments or deposits of the plan.
- (5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

- (1) The member contribution subaccount consists of:
  - (A) the member's contributions to the plan under section 23 of this chapter; and
  - (B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.
- (2) The employer contribution subaccount consists of:
  - (A) the employer's contributions made on behalf of the member to the plan under section 24 **or 24.5** of this chapter; and
  - (B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 29 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

SECTION 32. IC 5-10.3-12-23, AS AMENDED BY P.L.5-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Each member's contribution to the plan is equal to three percent (3%) of the member's compensation.

**(b) For a member who is an employee of the state**, the state shall pay the member's contribution on behalf of ~~each the~~ member ~~of the plan~~ each year.

**(c) For a member who is an employee of a political subdivision**, the political subdivision may pay all or part of the member's



1 **contribution on behalf of the member.**

2 ~~(b)~~ (d) To the extent permitted by the Internal Revenue Code and  
3 applicable regulations, a member of the plan may make contributions  
4 to the plan in addition to the contribution required under subsection (a).  
5 IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d) govern additional contributions  
6 made under this subsection.

7 ~~(c)~~ (e) Member contributions will be credited to the member's  
8 account as specified in IC 5-10.2-3.

9 ~~(d)~~ (f) Although designated as employee contributions, the  
10 contributions made under subsection ~~(a)~~ (b) are picked up and paid by  
11 the state as the employer in lieu of the contributions being paid by the  
12 employee in accordance with Section 414(h)(2) of the Internal Revenue  
13 Code.

14 (g) Although designated as employee contributions, the  
15 contributions made under subsection (c) by a political subdivision  
16 may be picked up and paid by the employer instead of the  
17 contributions being paid by the employee in accordance with  
18 Section 414(h)(2) of the Internal Revenue Code.

19 (h) A member may not receive any amounts paid by ~~the state an~~  
20 **employer** under this section directly instead of having the amounts  
21 paid to the plan.

22 SECTION 33. IC 5-10.3-12-24, AS ADDED BY P.L.22-2011,  
23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 UPON PASSAGE]: Sec. 24. (a) The state shall make employer  
25 contributions to the plan based on the rate determined under this  
26 section.

27 (b) The ~~employer's state's~~ contribution rate for the plan ~~shall be is~~  
28 equal to the employer's contribution rate for the fund as determined by  
29 the board under IC 5-10.2-2-11(b). The amount credited from the  
30 employer's contribution rate to the member's account shall not be  
31 greater than the normal cost of the fund. Any amount not credited to the  
32 member's account shall be applied to the unfunded accrued liability of  
33 the fund as determined under IC 5-10.2-2-11(a)(3) and  
34 IC 5-10.2-2-11(a)(4).

35 (c) The state's minimum contribution under this section is equal to  
36 three percent (3%) of the compensation of all members of the plan **who**  
37 **are employees of the state.**

38 (d) The state shall submit the employer contributions determined  
39 under this section as provided in IC 5-10.2-2-12.5.

40 SECTION 34. IC 5-10.3-12-24.5 IS ADDED TO THE INDIANA  
41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
42 [EFFECTIVE UPON PASSAGE]: **Sec. 24.5. (a) A participating**



political subdivision shall make employer contributions to the plan based on the rate determined under this section.

(b) A participating political subdivision's contribution rate for the plan is equal to the sum of:

(1) the contribution rate determined by the participating political subdivision under IC 5-10.3-6-1(c); and

(2) the sum, for each member employed by the participating political subdivision, of:

(A) the member's additional contribution to the plan under section 23(b) of this chapter; multiplied by

(B) the participating political subdivision's matching rate determined under IC 5-10.3-6-1(d).

(c) For each employee of a participating political subdivision, the amount credited to the member's account is the part of the employer's contribution determined under subsection (b) that is attributable to the member's compensation and the member's additional contributions.

(d) A participating political subdivision shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

SECTION 35. IC 5-10.3-12-25, AS AMENDED BY P.L.6-2012, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) Member contributions and net earnings on the member contributions in the member contribution subaccount belong to the member at all times and do not belong to ~~the state.~~ **any employer.**

(b) A member is vested in the employer contribution subaccount in accordance with the following schedule:

| Years of participation in the plan | Vested percentage of employer contributions and earnings |
|------------------------------------|----------------------------------------------------------|
| 1                                  | 20%                                                      |
| 2                                  | 40%                                                      |
| 3                                  | 60%                                                      |
| 4                                  | 80%                                                      |
| 5                                  | 100%                                                     |

For purposes of vesting in the employer contribution subaccount, only a member's full years of participation in the plan may be counted.

(c) The amount that a member may withdraw from the member's account is limited to the vested portion of the account.

(d) A member who attains normal retirement age is fully vested in all amounts in the member's account.



(e) If a member separates from service with the ~~state~~ **member's employer** before the member is fully vested in the employer contribution subaccount, the amount in the employer contribution subaccount that is not vested is forfeited as of the date the member separates from service.

(f) Amounts forfeited under subsection (e) must be used to reduce the ~~state's~~ unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(g) A member may not earn creditable service (as defined in IC 5-10.2-3-1(a)) under the plan.

SECTION 36. IC 5-10.3-12-31, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) If a member of the plan separates from employment with the ~~state~~ **member's employer** and later returns to ~~state~~ employment in a position covered by the plan:

**(1) the member resumes the member's participation in the plan; and**

**(2) the member is entitled to receive credit for the member's years of participation in the plan before the member's separation.**

However, any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

~~(b) An individual who elected under section 20 of this chapter to become a member of the plan resumes membership in the plan upon the individual's return to state employment.~~

~~(c) An individual who~~ **(b) If a member (as defined in IC 5-10.3-1-5) of the fund separates from employment with the member's employer and later returns to employment in a position covered by the fund, did not elect to become a member of the plan individual resumes the membership member's participation in the fund.**

~~(d)~~ **(c) An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter.**

SECTION 37. IC 5-10.5-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) This section applies after December 31, 2015.**

**(b) Members and beneficiaries of the public pension and retirement funds of the system may receive monthly benefits only by direct deposit or another method approved by the board.**

SECTION 38. IC 21-38-3-3, AS AMENDED BY P.L.3-2008,



SECTION 146, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: Sec. 3. The board of trustees of Ball  
 State University may define the duties and provide compensation for  
 faculty and staff of the university. **Subject to IC 5-10.2-2-20 and  
 IC 5-10.2-2-21**, the authority of the board under this section includes  
 the authority to establish fringe benefit programs, including retirement  
 benefits, that may be supplemental to, or instead of, state retirement  
 programs for teachers or other public employees as authorized by law.

SECTION 39. IC 21-38-3-4, AS ADDED BY P.L.2-2007,  
 SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: Sec. 4. The board of trustees of  
 Indiana University may:

- (1) elect a president, the professors, and other officers for Indiana  
 University as necessary and prescribe the duties and salaries of  
 those positions;
- (2) employ other persons as necessary; and
- (3) **subject to IC 5-10.2-2-20 and IC 5-10.2-2-21**, establish  
 programs of fringe benefits and retirement benefits for Indiana  
 University's officers, faculty, and other employees that may be  
 supplemental to, or instead of, state retirement programs  
 established by statute for public employees.

SECTION 40. IC 21-38-3-5, AS ADDED BY P.L.2-2007,  
 SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: Sec. 5. The board of trustees of  
 Indiana State University may prescribe the duties and provide the  
 compensation, including retirement and other benefits, of the faculty,  
 administration, and employees of Indiana State University. **The  
 authorization under this section to provide retirement benefits to  
 the faculty, administration, and employees of Indiana State  
 University is subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.**

SECTION 41. IC 21-38-3-7, AS ADDED BY P.L.169-2007,  
 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]: Sec. 7. The board of trustees of Ivy Tech  
 Community College may do the following:

- (1) Develop a statewide salary structure and classification system,  
 including provisions for employee group insurance, employee  
 benefits, and personnel policies.
- (2) Employ the chief administrator of each region.
- (3) Authorize the chief administrator of a region to employ the  
 necessary personnel for the region, determine qualifications for  
 positions, and fix compensation for positions in accordance with  
 statewide policies established under subdivision (1).



1     **The authorizations under this section to provide for employee**  
 2     **benefits and compensation are subject to IC 5-10.2-2-20 and**  
 3     **IC 5-10.2-2-21.**

4     SECTION 42. IC 21-38-3-8, AS ADDED BY P.L.2-2007,  
 5     SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 6     [EFFECTIVE UPON PASSAGE]: Sec. 8. The board of trustees of  
 7     Purdue University may elect all professors and teachers, removable at  
 8     the board's pleasure; fix and regulate compensations, including  
 9     programs of fringe benefits and retirement benefits that may be  
 10    supplemental to or in lieu of state retirement programs established by  
 11    statute for public employees. **The authorization to provide**  
 12    **retirement benefits under this section is subject to IC 5-10.2-2-20**  
 13    **and IC 5-10.2-2-21.**

14    SECTION 43. IC 21-38-3-9, AS ADDED BY P.L.2-2007,  
 15    SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 16    [EFFECTIVE UPON PASSAGE]: Sec. 9. The University of Southern  
 17    Indiana may employ a faculty and staff for the university, define the  
 18    duties of the faculty and staff, and provide compensation for the faculty  
 19    and staff, including a program of fringe benefits and a program of  
 20    retirement benefits that may supplement or supersede the state  
 21    retirement programs established by statute for teachers or other public  
 22    employees. **The authorization to provide retirement benefits under**  
 23    **this section is subject to IC 5-10.2-2-20 and IC 5-10.2-2-21.**

24    SECTION 44. IC 21-38-3-11, AS ADDED BY P.L.2-2007,  
 25    SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 26    [EFFECTIVE UPON PASSAGE]: Sec. 11. The board of trustees of  
 27    Vincennes University may elect and appoint persons of suitable  
 28    learning and talents to be president and professors of Vincennes  
 29    University and, **subject to IC 5-10.2-2-20 and IC 5-10.2-2-21**, agree  
 30    with them for their salaries and emoluments. The board of trustees shall  
 31    appoint a president to preside over and govern Vincennes University.

32    SECTION 45. IC 21-38-7-3, AS ADDED BY P.L.2-2007,  
 33    SECTION 279, IS AMENDED TO READ AS FOLLOWS  
 34    [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to IC 5-10.2-2-20**  
 35    **and IC 5-10.2-2-21**, a state educational institution may establish a  
 36    retirement benefit system for the employees of the state educational  
 37    institution.

38    SECTION 46. IC 36-8-8-11.5, AS AMENDED BY P.L.35-2012,  
 39    SECTION 125, IS AMENDED TO READ AS FOLLOWS  
 40    [EFFECTIVE JULY 1, 2015]: Sec. 11.5. (a) **This subsection applies**  
 41    **to a fund member who is less than fifty-five (55) years of age on the**  
 42    **date on which the fund member retires.** Not less than thirty (30) days



1 after a fund member retires from a position covered by this chapter, the  
2 fund member may:

3 (1) be rehired by the same unit that employed the fund member in  
4 a position covered by this chapter for a position not covered by  
5 this chapter; and

6 (2) continue to receive the fund member's retirement benefit  
7 under this chapter.

8 **(b) This subsection applies to a fund member who is at least**  
9 **fifty-five (55) years of age on the date on which the fund member**  
10 **retires. In accordance with the federal Pension Protection Act of**  
11 **2006 (P.L.109-280) and unless otherwise prohibited by law, a fund**  
12 **member may:**

13 **(1) be rehired by the same unit that employed the fund**  
14 **member in a position covered by this chapter for a position**  
15 **not covered by this chapter without a minimum period of**  
16 **separation from employment; and**

17 **(2) continue to receive the fund member's retirement benefit**  
18 **under this chapter.**

19 ~~(b)~~ **(c)** This section may be implemented unless the system board  
20 receives from the Internal Revenue Service a determination that  
21 prohibits the implementation.

22 **SECTION 47. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 492, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, delete "or" and insert "**and**".

Page 1, after line 16, begin a new paragraph and insert:

"SECTION 3. IC 5-10.2-2-6, AS AMENDED BY P.L.35-2012, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The retirement allowance account of the public employees' retirement fund consists of the retirement fund, exclusive of the annuity savings account. The retirement allowance account also includes any amounts received under ~~IC 5-10.3-12-24(b)~~ **IC 5-10.3-12-24 or IC 5-10.3-12-24.5**. For the public employees' retirement fund, separate accounts within the retirement allowance account shall be maintained for contributions made by each contribution rate group.

(b) The retirement allowance account of the pre-1996 account consists of the pre-1996 account, exclusive of the annuity savings account.

(c) The retirement allowance account of the 1996 account consists of the 1996 account, exclusive of the annuity savings account."

Page 2, line 19, delete "may" and insert "**shall**".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

**"(e) If the board determines contributions and contribution rates for one (1) or more employers under this section differ from the contributions and contribution rates determined by the actuarial investigation under section 9 of this chapter, the board shall notify the interim study committee for pension management oversight of this fact by reporting the board's action to the legislative services agency in an electronic format under IC 5-14-6."**

Page 3, line 35, delete "members." and insert "**members attributable to service with the withdrawing participating entity.**".

Page 3, line 37, delete "payments determined by the board." and insert "**payments.**".

Page 4, line 1, delete "benefit." and insert "**benefit attributable to service with the withdrawing participating entity.**".

Page 4, line 2, after "payments" insert ".".

Page 4, delete line 3.

Page 4, line 16, after "of" insert "**payments.**".



Page 4, delete line 17.

Page 4, line 24, after "which" insert **"newly hired employees of"**.

Page 4, line 27, after "which" insert **"newly hired employees of"**.

Page 4, line 31, after "which" insert **"newly hired employees of"**.

Page 4, line 34, after "which" insert **"newly hired employees of"**.

Page 5, line 28, delete "members." and insert **"members attributable to service with the freezing participating entity. The board shall collaborate with the freezing participating entity by sharing the actuarial method and report."**

Page 5, line 29, after "payments" insert ".".

Page 5, delete line 30.

Page 5, line 39, after "payments" insert ".".

Page 5, delete line 40.

Page 6, line 4, after "entity." insert **"In addition, the freezing participating entity must contribute to the fund the amount the board determines is necessary to fund fully the benefits attributable to service with the freezing participating entity that are vested or will become vested and are not expected to be fully funded through the continuing contributions under section 11 of this chapter during the duration of their employment with the freezing participating entity. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments."**

Page 6, delete lines 33 through 42, begin a new paragraph and insert:

**"SECTION 8. IC 5-10.2-2-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. If any provision of this article, IC 5-10.3, or IC 5-10.4 allows the state as an employer to make an election or take discretionary action, the election or discretionary action shall be taken by the following entities, as applicable:**

- (1) The governor, if the election or discretionary action involves an elected officer, appointed officer, or employee of the executive branch.**
- (2) The legislative council, if the election or discretionary action involves a senator, a representative, or an employee of the legislative branch.**
- (3) The chief justice of the supreme court, if the election or discretionary action involves:**
  - (A) a justice;**
  - (B) a judge;**



- (C) a prosecuting attorney;
- (D) an officer paid by the state under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2; or
- (E) an employee of the judicial branch of state government."

Page 7, delete lines 1 through 30.

Page 9, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 11. IC 5-10.3-6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "plan" refers to the public employees' defined contribution plan under IC 5-10.3-12.**

SECTION 12. IC 5-10.3-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~By ordinance or resolution of~~ The governing body of a political subdivision may **adopt an ordinance or resolution** specifying ~~by a~~ departmental, occupational, or other definable classification ~~the of~~ employees:

- (1) who ~~will~~ **are required to** become members of the fund;
- (2) who **are required to become members of the plan; or**
- (3) who may each elect whether to become members of the fund or members of the plan.

A political subdivision may become a participant in the fund **or the plan, or both, as applicable,** if the ordinance or resolution is filed with and approved by the board.

(b) **An ordinance or resolution adopted under subsection (a) that includes a provision described under subsection (a)(3) may also include one (1) of the following provisions:**

- (1) **If an employee who may elect whether to become a member of the fund or a member of the plan does not make an election under IC 5-10.3-7-1.1, the employee becomes a member of the plan.**
- (2) **If an employee who may elect whether to become a member of the fund or a member of the plan does not make an election under IC 5-10.3-12-20.5, the employee becomes a member of the fund.**

**If an ordinance or resolution adopted under subsection (a) that includes a provision described under subsection (a)(3) does not include either of the provisions described in subdivisions (1) or (2), subdivision (1) applies to the departmental, occupational, or other definable classification of employees that may elect to become members of the fund or members of the plan.**

(c) **If an ordinance or resolution adopted under subsection (a)**



includes a provision described under subsection (a)(2) or (a)(3), or both, the ordinance or resolution may include a specification of the political subdivision's contribution rate to the plan as a percentage of each member's compensation. Each year, the political subdivision's contribution rate specified under this subsection must be greater than or equal to zero percent (0%) and may not exceed the percentage that would produce the normal cost for participation in the fund under IC 5-10.2-2-11, if the political subdivision were a participant in the fund. If a provision specifying the political subdivision's contribution rate is not included in the ordinance or resolution, the political subdivision's contribution rate to the plan is zero percent (0%).

(d) If an ordinance or resolution adopted under subsection (a) includes a provision described under subsection (a)(2) or (a)(3), or both, the ordinance or resolution may include a specification of the political subdivision's matching rate that is the percentage of each member's additional contributions to the plan that the political subdivision will match. A political subdivision may specify only:

- (1) zero percent (0%); or
- (2) fifty percent (50%).

If a provision specifying the political subdivision's matching rate is not included in the ordinance or resolution, the political subdivision's matching rate for the plan is zero percent (0%).

(b) (e) A governing body may include in its ordinance or resolution adopted under subsection (a) a determination of the date from which prior service for its employees will be computed. Creditable service for these employees is determined under IC 5-10.3-7-7.5.

(c) (f) The effective date of participation is the earlier of January 1 or July 1 after the date of approval. However, no retirement benefit may be paid until six (6) months after the effective date of participation.

SECTION 13. IC 5-10.3-6-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This section applies to a third class city or a town.

(b) The clerk-treasurer of a city or town is that city's or town's authorized agent for all matters concerning the fund **and the plan**.

SECTION 14. IC 5-10.3-6-4, AS AMENDED BY P.L.23-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The board shall maintain separate accounts for each contribution rate group. Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2 **and IC 5-10.3-12, as applicable**.

SECTION 15. IC 5-10.3-6-7, AS AMENDED BY P.L.115-2009,



SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

- (1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund **or the plan, as applicable**; or
- (2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. The suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

(b) If:

- (1) service credit is verified for a member who has filed an application for retirement benefits; and
- (2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

- (1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and
- (2) transfer the penalty to the fund **or the plan, as applicable**."

Page 10, line 20, delete "." and insert **"attributable to service with the withdrawing political subdivision."**

Page 10, line 28, delete "." and insert **"attributable to service with the withdrawing political subdivision."**

Page 11, line 21, after "which" insert **"newly hired employees of"**.

Page 11, line 24, after "which" insert **"newly hired employees of"**.

Page 11, line 28, after "which" insert **"newly hired employees of"**.

Page 11, line 31, after "which" insert **"newly hired employees of"**.

Page 12, line 19, delete "members." and insert **"members attributable to service with the freezing political subdivision."**

Page 12, line 36, after "subdivision." insert **"In addition, the freezing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the benefits**



attributable to service with the freezing political subdivision that are vested, or will become vested, and are not anticipated to be fully funded through the continuing contributions under IC 5-10.2-2-11 during the duration of their employment with the freezing political subdivision. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments determined by the board."

Page 13, delete lines 21 through 42.

Delete pages 14 through 15.

Page 16, delete lines 1 through 3.

Page 18, line 1, delete "or of a".

Page 18, line 2, delete "participating political subdivision in a covered position".

Page 18, between lines 8 and 9, begin a new paragraph and insert:

**"(f) An individual:**

- (1) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;**
- (2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the fund; and**
- (3) who is not excluded from membership under section 2 of this chapter;**

**becomes a member of the fund on the date the individual's employment begins.**

**(g) An individual:**

- (1) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;**
- (2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:**

**(A) to allow an employee in the covered position to become a member of the fund or a member of the public employee's defined contribution plan at the discretion of the employee; and**

**(B) to require an employee in a covered position to make an election under IC 5-10.3-12-20.5 in order to become a member of the plan;**

- (3) who does not make an election under IC 5-10.3-12-20.5 to become a member of the public employees' defined contribution plan; and**

- (4) who is not excluded from membership under section 2 of**



**this chapter;  
becomes a member of the fund on the date the individual's  
employment begins.**

**(h) An individual:**

**(1) who becomes a full-time employee of a political  
subdivision in a covered position after June 30, 2015;**

**(2) who is employed by a political subdivision that has elected  
in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
approved by the board:**

**(A) to allow an employee in the covered position to become  
a member of the fund or the public employees' defined  
contribution plan at the discretion of the employee; and**

**(B) to require an employee to make an election under  
section 1.1 of this chapter in order to become a member of  
the fund;**

**(3) who does make an election under section 1.1 of this  
chapter to become a member of the fund; and**

**(4) who is not excluded from membership under section 2 of  
this chapter;**

**becomes a member of the fund on the date the individual's  
employment begins."**

Page 18, delete lines 9 through 26, begin a new paragraph and  
insert:

**"SECTION 20. IC 5-10.3-7-1.1 IS ADDED TO THE INDIANA  
CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) An individual:**

**(1) who becomes a full-time employee of the state (as defined  
in section 1 of this chapter) after June 30, 2015; and**

**(2) who is not excluded from membership under section 2 of  
this chapter;**

**may elect to become a member of the fund.**

**(b) An individual:**

**(1) who becomes a full-time employee of a political  
subdivision in a covered position after June 30, 2015;**

**(2) who is employed by a political subdivision that has elected  
in an ordinance or resolution adopted under IC 5-10.3-6-1 and  
approved by the board:**

**(A) to allow an employee in the covered position to become  
a member of the fund or the public employees' defined  
contribution plan at the discretion of the employee; and**

**(B) to require an employee to make an election under this  
section in order to become a member of the fund; and**



(3) who is not excluded from membership under section 2 of this chapter;

may elect to become a member of the fund.

(c) An election under this section:

(1) must be made in writing on a form prescribed by the board;

(2) must be filed with the board; and

(3) is irrevocable.

(d) An individual who:

(1) is eligible to make the election under this section; and

(2) does not make the election;

becomes a member of the public employees' defined contribution plan.

SECTION 21. IC 5-10.3-7-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. Notwithstanding IC 5-10.2-3-1, for the purpose of computing benefits the creditable service of a member covered by an ordinance or resolution adopted by a political subdivision's governing body under ~~IC 5-10.3-6-1(b)~~ **IC 5-10.3-6-1(e)** excludes all service with the political subdivision before the prior service credit date contained in the resolution. However, service with the political subdivision before the prior service credit date shall be considered for the purpose of determining eligibility for benefits."

Page 18, line 31, delete "IC 5-10.3-6, IC 5-10.3-6.5," and insert "IC 5-10.3-6".

Page 18, line 42, after "IC 5-10.3-6-7" insert ";".

Page 18, line 42, delete "or".

Page 19, line 1, delete "IC 5-10.3-6.5-8;"

Page 19, line 5, after "IC 5-10.3-6-7" insert ".".

Page 19, line 5, delete "or IC 5-10.3-6.5-8."

Page 19, line 13, after "IC 5-10.2-2-11" insert ",".

Page 19, line 14, delete "or".

Page 19, line 14, delete ";" and insert ", or **IC 5-10.3-12-24.5**;"

Page 21, delete lines 2 through 42, begin a new paragraph and insert:

"SECTION 24. IC 5-10.3-12-1, AS AMENDED BY P.L.54-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as **otherwise** provided in ~~subsection (e)~~, **this section**, this chapter applies to **the following**:

(1) An individual who:

(A) on or after the effective date of the plan ~~(1)~~ **and before July 1, 2015**, becomes for the first time a full-time employee



of the state: ~~(as defined in IC 5-10.3-7-1(d))~~:

- ~~(A)~~ (i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and
- ~~(B)~~ (ii) who is paid by the auditor of state by salary warrants; and
- ~~(2)~~ (B) makes the election described in section 20 of this chapter to become a member of the plan.

**(2) An individual who:**

**(A) after June 30, 2015, becomes for the first time a full-time employee of the state:**

- (i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and**
- (ii) who is paid by the auditor of state by salary warrants; and**

**(B) does not make the election under IC 5-10.3-7-1.1 to become a member of the fund.**

**(3) An individual:**

**(A) who becomes a full-time employee of a participating political subdivision in a covered position after June 30, 2015;**

**(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7; and**

**(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the plan.**

**(4) An individual:**

**(A) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;**

**(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;**

**(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:**

- (i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and**
- (ii) to require an employee in a covered position to make an election under section 20.5 of this chapter in order to become a member of the plan; and**

**(D) who makes an election under section 20.5 of this**



chapter to become a member of the plan.

**(5) An individual:**

**(A) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;**

**(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;**

**(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:**

**(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and**

**(ii) to require an employee to make an election under IC 5-10.3-7-1.1 in order to become a member of the fund; and**

**(D) who does not make an election under IC 5-10.3-7-1.1 to become a member of the fund.**

(b) Except as provided in subsection (c), this chapter does not apply to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state ~~(as defined in IC 5-10.3-7-1(d))~~ in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) is employed by:

(A) a body corporate and politic of the state created by state statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who, as employees of the body or institution, become for the first time full-time employees of the state ~~(as defined in IC 5-10.3-7-1(d))~~ in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director; or

(2) March 1, 2013.

(d) This chapter does not apply to ~~an individual who:~~ **the following:**

(1) **An individual who before the effective date of the plan, is or was a member (as defined in IC 5-10.3-1-5) of the fund or before otherwise becoming eligible to become a member of the plan.**



**(2) An individual who:**

**(A)** on or after the effective date of the plan **and before July 1, 2015, (A)** except as provided in subsection (c), becomes for the first time a full-time employee of the state: ~~(as defined in IC 5-10.3-7-1(d))~~:

- (i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and
  - (ii) who is not paid by the auditor of state by salary warrants;
- or

**(B)** does not elect to participate in the plan.

**(3) An individual who:**

**(A)** is eligible to make the election under IC 5-10.3-7-1.1 to become a member of the fund; and

**(B)** does make the election under IC 5-10.3-7-1.1 to become a member of the fund.

**(4) An individual who is required to become a member of the fund."**

Delete page 22.

Page 23, delete lines 1 through 3.

Page 23, line 20, delete "IC 5-10.3-6.5." and insert "**IC 5-10.3-6.**".

Page 23, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 30. IC 5-10.3-12-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 20.5. (a) This section applies to an individual described in section 1(a)(4) of this chapter who is otherwise eligible to become a member of the plan.**

**(b) An individual described in subsection (a) may elect to become a member of the plan on the date the individual begins the individual's employment in a covered position with a political subdivision that participates in the plan.**

**(c) An election under this section:**

- (1) must be made in writing;**
- (2) must be filed with the board, on a form prescribed by the board; and**
- (3) is irrevocable.**

**(d) An individual described in subsection (a) who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund.**

SECTION 31. IC 5-10.3-12-21, AS AMENDED BY P.L.35-2012, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 21. (a) The plan consists of the following:**

- (1) Each member's contributions to the plan under section 23 of**



this chapter.

(2) Contributions made by an employer to the plan on behalf of each member under section 24 **or 24.5** of this chapter.

(3) Rollovers to the plan by a member under section 29 of this chapter.

(4) All earnings on investments or deposits of the plan.

(5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

(1) The member contribution subaccount consists of:

(A) the member's contributions to the plan under section 23 of this chapter; and

(B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

(2) The employer contribution subaccount consists of:

(A) the employer's contributions made on behalf of the member to the plan under section 24 **or 24.5** of this chapter; and

(B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 29 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account."

Page 24, line 2, delete "or state educational institution".

Page 24, line 18, delete "or a state educational institution".

Page 24, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 33. IC 5-10.3-12-24, AS ADDED BY P.L.22-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) The state shall make employer contributions to the plan based on the rate determined under this section.

(b) The ~~employer's state's~~ contribution rate for the plan ~~shall be~~ is equal to the employer's contribution rate for the fund as determined by the board under IC 5-10.2-2-11(b). The amount credited from the employer's contribution rate to the member's account shall not be



greater than the normal cost of the fund. Any amount not credited to the member's account shall be applied to the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan **who are employees of the state.**

(d) The state shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

SECTION 34. IC 5-10.3-12-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24.5. (a) A participating political subdivision shall make employer contributions to the plan based on the rate determined under this section.**

**(b) A participating political subdivision's contribution rate for the plan is equal to the sum of:**

**(1) the contribution rate determined by the participating political subdivision under IC 5-10.3-6-1(c); and**

**(2) the sum, for each member employed by the participating political subdivision, of:**

**(A) the member's additional contribution to the plan under section 23(b) of this chapter; multiplied by**

**(B) the participating political subdivision's matching rate determined under IC 5-10.3-6-1(d).**

**(c) For each employee of a participating political subdivision, the amount credited to the member's account is the part of the employer's contribution determined under subsection (b) that is attributable to the member's compensation and the member's additional contributions.**

**(d) A participating political subdivision shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5."**

Page 25, delete lines 1 through 3.

Page 28, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 46. IC 36-8-8-11.5, AS AMENDED BY P.L.35-2012, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.5. (a) This subsection applies to a fund member who is less than fifty-five (55) years of age on the date on which the fund member retires.** Not less than thirty (30) days after a fund member retires from a position covered by this chapter, the fund member may:

**(1) be rehired by the same unit that employed the fund member in**



a position covered by this chapter for a position not covered by this chapter; and

(2) continue to receive the fund member's retirement benefit under this chapter.

**(b) This subsection applies to a fund member who is at least fifty-five (55) years of age on the date on which the fund member retires. In accordance with the federal Pension Protection Act of 2006 (P.L.109-280) and unless otherwise prohibited by law, a fund member may:**

**(1) be rehired by the same unit that employed the fund member in a position covered by this chapter for a position not covered by this chapter without a minimum period of separation from employment; and**

**(2) continue to receive the fund member's retirement benefit under this chapter.**

~~(b)~~ (c) This section may be implemented unless the system board receives from the Internal Revenue Service a determination that prohibits the implementation."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 492 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 8, Nays 1.

